

Staff Attorneys' Office
Arizona Supreme Court
1501 W. Washington, Suite 445
Phoenix, AZ 85007
(602) 452-3528
ecrowley@courts.az.gov

IN THE SUPREME COURT
STATE OF ARIZONA

Sua Sponte Petition to Amend)	
Rule 31.15(b), Arizona Rules of)	Arizona Supreme Court
Criminal Procedure)	No. _____
_____)	

Pursuant to Rule 28(B), Rules of the Supreme Court, an amendment to Rule 31.15(b), Arizona Rules of Criminal Procedure, is proposed as set forth in Attachment A hereto. Rule 31.15(b) provides that “[n]o appeal shall be dismissed if the record on appeal is sufficient to enable the Appellate Court to decide the appeal on its merits, or when the appeal is taken automatically after the defendant has been sentenced to death.” As amended in 1995, however, A.R.S. § 13-4039 states: “If the appellant fails to prosecute the appeal, the appellate court shall dismiss the appeal.” The proposal would conform the rule to the statute.

DATED this _____ day of January, 2010.

By:

Ellen M. Crowley,
Chief Staff Attorney
Arizona Supreme Court

Attachment A

Arizona Rules of Criminal Procedure

* * *

Rule 31.15. Motion to Dismiss

a. [No change in text.]

b. Involuntary Dismissal. The Appellate Court, upon motion of the appellee, or upon its own initiative after notice to all parties, may dismiss an appeal for want of prosecution, unless there is a showing of good cause why the appeal should not be dismissed. If the appellant was a defendant at trial, the court shall give notice to the appellant and to the attorney for the appellant. No appeal shall be dismissed ~~if the record on appeal is sufficient to enable the Appellate Court to decide the appeal on its merits, or~~ when the appeal is taken automatically after the defendant has been sentenced to death.

c. [No change in text.]

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